

§ 40.9 Comment receipt and response to comments.

(a) The Secretary follows the procedures in § 40.10 if:

(1) A State office or official is designated to act as a single point of contact between a State process and all Federal agencies, and

(2) That office or official transmits a State process recommendation for a program selected under § 40.6.

(b)(1) The single point of contact is not obligated to transmit comments from State, areawide, regional or local officials and entities where there is no State process recommendation.

(2) If a State process recommendation is transmitted by a single point of contact, all comments from State, areawide, regional, and local officials and entities that differ from it must also be transmitted.

(c) If a State has not established a process, or is unable to submit a State process recommendation, State, areawide, regional and local officials and entities may submit comments either to the applicant or to VA.

(d) If a program or activity is not selected for a State process, State, areawide, regional and local officials and entities may submit comments either to the applicant or to VA. In addition, if a State process recommendation for a nonselected program or activity is transmitted to VA by the single point of contact, the Secretary follows the procedures of § 40.10 of this part.

(e) The Secretary considers comments which do not constitute a State process recommendation submitted under these regulations and for which the Secretary is not required to apply the procedures of § 40.10 of this part, when such comments are provided by a single point of contact, by the applicant, or directly to the VA by a commenting party.

(Authority: 42 U.S.C. 4231(b))

§ 40.10 Making efforts to accommodate intergovernmental concerns.

(a) If a State process provides a State process recommendation to VA through its single point of contact, the Secretary either:

(1) Accepts the recommendation;

(2) Reaches a mutually agreeable solution with the State process; or

(3) Provides the single point of contact with such written explanation of the decision, as the Secretary in his or her discretion deems appropriate. The Secretary may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the single point of contact that:

(1) The VA will not implement its decision for at least ten days after the single point of contact receives the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the waiting period of at least ten days is not feasible.

(c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification five days after the date of mailing of such notification.

(Authority: 42 U.S.C. 4231(b))

§ 40.11 Interstate.

(a) The Secretary is responsible for:

(1) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(2) Notifying appropriate officials and entities in States which have adopted a process and which select VA's program or activity.

(3) Making efforts to identify and notify the affected State, areawide, regional, and local officials and entities in those States that have not adopted a process under the order or do not select VA's program or activity;

(4) Responding pursuant to § 40.10 of this part if the Secretary receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which the review, coordination, and communication with VA have been delegated, or

(b) The Secretary uses the procedures in § 40.10 if a State process provides a

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State process recommendation to VA through a single point of contact.

(Authority: 42 U.S.C. 4231(b))

§ 40.12 [Reserved]

§ 40.13 Waiver.

In an emergency, the Secretary may waive any provision of these regulations.

(Authority: 42 U.S.C. 4231(b))

PART 41—AUDITING REQUIREMENTS

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AUTHORITY: Pub. L. 98–502, 31 U.S.C. ch. 75; 38 U.S.C. 501.

SOURCE: 50 FR 30937, July, 31, 1985, unless otherwise noted.

§ 41.1 Purpose.

These regulations (38 CFR 41.1 through 41.20) are issued pursuant to the Single Audit Act of 1984, Pub. L. 98–502. The act establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements. The Single Audit act requires the following:

(a) State or local governments that receive \$100,000 or more a year in Federal financial assistance shall have an audit made in accordance with these regulations.

(b) State or local governments that receive between \$25,000 and \$100,000 a year shall have an audit made in accordance with these regulations, or in accordance with Federal laws and regu-

lations governing the programs they participate in.

(c) State or local governments that receive less than \$25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

(d) Nothing in this section exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A–102, “Uniform requirements for grants to State or local governments.”

(Authority: Pub. L. 98–502)

§§ 41.2–41.4 [Reserved]

§ 41.5 Definitions.

For the purposes of these regulations, the following definitions from the Single Audit Act apply:

(a) *Cognizant agency* means the Federal agency assigned by the OMB (Office of Management and Budget) to carry out the responsibilities described in § 41.11.

(b) *Federal financial assistance* means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

(c) *Federal agency* has the same meaning as the term ‘agency’ in section 551(1) of Title 5 U.S.C.

(d) *Generally accepted accounting principles* has the meaning specified in the generally accepted government auditing standards.

(e) *Generally accepted government auditing standards* means the *Standards For Audit of Government Organizations, Programs, Activities, and Functions*, developed by the Comptroller General, dated February 27, 1981.

(f) *Independent auditor* means: